

ORIGINAL

Decision No. 68077

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of VALLECITO WATER COMPANY, a Corporation for authority to deviate from its Main Extension Rule in order to serve water to subdivisions within the Company's certificated service area.

Application No. 46658
(Filed May 22, 1964)

Wm. M. Lassleben, Jr., for applicant.
Kenji Tomita and Robert C. Durkin, for the
Commission staff.

O P I N I O N

Vallecito Water Company, a corporation, seeks authority to deviate from its Main Extension Rule 15 and to enter into main extension agreements to serve six subdivisions totaling 131 lots and a medical center. Authority is required because of the provisions in Section A.2, Limitation of Expansion, of said Rule, to wit,

- "a. Whenever the outstanding advance contract balances exceed 50% of the total water utility plant less depreciation reserve, the utility shall not make any further extension of distribution mains without authorization of the Commission.
- b. Whenever the outstanding advances reach the above level, the utility shall so notify the Commission within 30 days."

As of December 31, 1963, total utility plant less reserves was \$1,834,758.92 and advances for construction were \$1,034,369.28 or 56.4%.

Public hearing was held before Examiner Warner on June 24, 1964, at Los Angeles. The Commission staff opposed the application on the grounds that the granting of it would further impair applicant's financial condition and would, therefore, be adverse to the public interest.

Applicant's predecessor, Whittier Extension Mutual Water Company, was organized in 1914. By Decision No. 53277, dated June 26, 1956, in Application No. 36348 (Amended), applicant was granted a certificate of public convenience and necessity to operate a public utility water system in the area formerly served by the Mutual and was authorized to issue 38,332 shares of common stock, of a par value of \$10 per share and of an aggregate par value of \$383,320, to the Mutual for the latter's water system and assets. Said Decision recites that the potential of applicant's area was some 10,000 domestic services. Applicant's service area comprises approximately 3,400 acres, and water service is now being furnished to approximately 4,000 customers. The locations of the subdivisions and medical center are shown on the map, Exhibit No. 1. They are within applicant's certificated area.

Exhibit No. 2 herein, an interim balance sheet as of May 31, 1964 and a statement of income for the 5 months ending May 31, 1964, shows that applicant's total utility plant less reserves amounted to \$1,937,324.32 and advances for construction were \$1,107,723.56 or 57.2%.

The record shows that unpaid service revenue refunds as of May 31, 1964 for the year 1959 were \$1,451.96; for the

year 1960, \$3,530.87; for the year 1961, \$7,541.94; for the year 1962, \$17,521.43; for the year 1963, \$32,022.19; a total of \$62,068.39. Total refunds payable as of May 31, 1964, as shown on Exhibit No. 2, were \$85,420.89. The difference of \$23,352.50 represents the excess of advances received over cost.

By Advice Letter No. 11, dated October 18, 1963, applicant sought authority to deviate from its Rule 15 to enter into main extension agreements totaling \$155,350 to serve 478 lots and such authority was granted by Resolution W-906, dated November 6, 1963; by Advice Letter No. 12, dated December 30, 1963, authority was sought to deviate from Rule 15 to enter into main extension agreements totaling \$26,000 to serve 80 lots which was granted by Resolution W-917, dated January 15, 1964; by Advice Letter No. 13, dated February 1, 1964, authority was sought to deviate from Rule 15 to enter into main extension agreements totaling \$30,875 to serve 95 lots which was granted by Resolution W-928, dated February 26, 1964; by Advice Letter No. 14, dated March 13, 1964, authority was sought to deviate from Rule 15 and to enter into main extension agreements totaling \$20,475 to serve 63 lots and \$4,000 to serve the medical center, all included in the instant application, and such letter was rejected by the Commission by a letter dated March 25, 1964 with instructions to the applicant that it file a formal application, which is the instant matter.

The record shows, in testimony by applicant's secretary who has held such office for the last four years, and who was assistant secretary and office manager prior thereto, but who has

never been and is not a director, that as of May 31, 1964, applicant had a loan in the amount of \$125,000 from Security First National Bank, due August 14, 1964, with interest at 5% payable at maturity. Such note is on an annual basis and has been increased and renewed from year to year. Also, applicant had issued a note to Sunset Petroleum in the face amount of \$50,000, payable yearly in the amount of \$2,500, the first installment of which was due and payable December 31, 1963, and was unpaid. Also, applicant had issued its note of \$24,000 to Neptune Meter Company which falls due September 1, 1964, with 6% interest. Nothing had been paid on this note. Also, applicant had issued a note in the amount of about \$6,000 to Shanahan and trustees, which falls due September 1, 1964, with interest at 6%. Applicant's other current and accrued liabilities, as of May 31, 1964, included trade accounts payable totaling \$45,191.19 of which about 40% were over 90-days. Total current and accrued liabilities shown in Exhibit No. 2 amounted to \$312,196.04 and total current and accrued assets amounted to \$77,771.92.

Applicant's secretary recited applicant's financial history in substantially the same manner that its president testified as set forth in Decision No. 67261, dated May 26, 1964, in Application No. 45688 of applicant to sell its water system and assets to Suburban Water Systems, which application was denied by said Decision.^{1/} In the year 1960, applicant attempted to sell its assets to San Gabriel Valley Water Company but such attempts were tabled in November of that year; applicant's directors having then decided to continue to operate and to seek equity capital or long-term financing from principal

^{1/} Petitions for rehearing by applicant herein, Suburban and Cavin Co. were denied by Dec. No. 67632, dated August 4, 1964.

shareholders or lending institutions. None of the principal shareholders really wanted to be in the water business and low earnings did not permit servicing a substantial long-term loan. An application for a rate increase was filed on July 6, 1961, which resulted in small relief in the irrigation rate, but no increase in general or any other rates was granted by Decision No. 64328, dated October 2, 1962, in Application No. 43581 on which rehearing was denied by Decision No. 64762, dated January 8, 1963. Early in 1963 applicant's directors were determined not to continue to operate but to sell, and such determination led to the filing of Application No. 45688, supra.

The record shows that applicant's water supplies are ample and that there are no serious operating problems. The addition of no back-up or off-site facilities is required to serve the subdivisions and medical center which are the subjects herein.

Witnesses for the subdividers and the medical center testified that they had already expended \$450,000 preparing their properties for subdivision and development; that construction of houses, and their ultimate sale, was held up because of applicant's inability to provide water service and because of their inability to secure clearances from the Real Estate Commission and other official bodies which require statements and guarantees of adequate water supplies to proposed developments before approving their construction; that if required to contribute the cost of water system installations, which they were reluctant to do, such costs could not be added to the selling price of homes because such prices are determined by the market therefor; and that they would be willing either to defer demanding or

receiving refunds until applicant's ratio of advances to net utility plant became less than 50%, or they would accept shares of applicant's stock in lieu of cash refunds.

The record shows, however, that although applicant is authorized by its Articles of Incorporation to issue 100,000 shares of common capital stock, the original issuance of only 38,332 shares of common stock has been applied for, or authorized by this Commission. Applicant's Articles do not provide for the issuance of any type of capital stock other than common. Some of the subdividers had purchased their properties for development prior to the issuance of Decision No. 64536, dated November 8, 1962, in Case No. 5501 and Application No. 40579 (Amended) which promulgated the currently effective standard main extension rule and which included, for the first time, the limitation of expansion heretofore referred to. The reasons for the imposition of such limitation are set forth in the Opinion in said Decision. Generally speaking, the Commission's experience in the regulation of public utility water companies has shown that, in those instances where advances for construction have exceeded 50% of net utility plant, the cash drain has impaired the utility's financial abilities. Such financial impairment endangers the utility's ability to fulfill its public utility water service obligations, not only to its present consumers, but also, as in the instant case, to those who seek water service. Obviously, the public interest is seriously affected when a utility's financial structure and operations reach the instant state.

Applicant submitted no financial plan or plans.

We find that, not only have applicant's advances for construction exceeded the permitted 50%-ratio to its net utility plant, but that if the instant application were granted they would further exceed it. We also find, however, that there are immediate

and urgent demands for water service to at least 131 single-family residential lots and a medical center which will provide medical, dental and X-ray services, a laboratory, a pharmacy, and a first aid station in applicant's service area comprising a population in excess of 15,000 where no such services are available.

We find that if applicant's unsecured creditors pressed their legitimate claims, applicant would be unable to meet them.

We find that applicant not only has failed to meet its financial obligations, but that it is now unable to meet its public utility water service obligations in its dedicated service area unless it is further authorized to deviate from its main extension rule with respect to an excessive ratio of advances to net plant.

We find that to require contributions by the subdividers and developers of the costs of water system installations to serve their properties would be discriminatory under the particular circumstances.

We find that applicant has no authorized stock to offer and to issue in lieu of cash refunds.

We find that authorizing applicant to add \$52,682 to its advances for construction in order to provide water service to the 6 subdivisions containing 131 lots and the medical center, when such addition is considered in its relation to the total of \$1,108,000 of advances for construction, is of secondary importance to the public need in this particular case. However, we find that the Commission has, since October, 1963, authorized applicant to add some \$212,225 to such advances by authorizing deviations from applicant's main extension rule sought through advice letters. Applicant should not be permitted henceforth to continue to deviate from its rule, and we find that the limit of such permissible deviation will have been reached if the instant application is granted.

We find that, in view of the demands for water service and their urgency, the public interest requires that the deviation herein sought should be authorized subject to the condition that:

Applicant shall be required to publish a notice of its financial inability to further extend its facilities and service under its filed main extension rule, such notice to be published in a newspaper of general circulation in its service area and in a leading Southern California building trades publication.

We conclude that the instant application should be granted to the extent set forth in the following order.

The record shows that applicant proposes to furnish water service to the medical center by executing a main extension agreement pursuant to Section C of its Rule 15. This is not a correct interpretation of said Section which applies to main extensions to serve subdivisions, tracts, housing projects, industrial developments or organized commercial districts, none of which the medical center is. Extension to the medical center should be made under Section B, Extensions to Serve Individuals.

O R D E R

IT IS ORDERED that this application is granted subject to the condition that:

Within twenty days after the effective date of this order applicant shall publish a notice of its financial inability to further extend its facilities and service under its filed main extension rule, such notice to be published in a newspaper of general circulation in its service area and in a leading Southern California building trades publication.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 20th day of OCTOBER, 1964.

Frederick B. Halaloff
President
George H. Trover
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.